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January 31, 2004

VIA FEDEX

Office of the Attorney General
State of California
Attention: Ms. Tricia Knight,
Initiative Coordinator
1300 I Street
Sacramento, California 95814

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FEB 02 2004

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary of Proposed Initiative:
California Home Rule Amendment of 2004

Dear Ms. Knight:

Pursuant to Section 10(d) of Article II of the California Constitution, and Section 9002 of the Elections Code, I am submitting a constitutional and statutory initiative measure, entitled the "California Home Rule Amendment of 2004," and requesting that your office prepare a title and summary of the measure as provided by law.

Enclosed please find (1) the text of the measure, (2) a check for \$200.00 as required by Section 9004 of the Elections Code, and (3) the signed statement required by Section 9608 of the Elections Code.

All inquiries and correspondence relating to the measure should be directed to:

John A. Ramirez
Rutan & Tucker, LLP
Post Office Box 1950
Costa Mesa, California 92628-1950
telephone: (714) 641-5100
facsimile: (714) 546-9035

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The measure submitted with this letter is intended to be *in addition to*, and not as a substitute or replacement for, the measures of the same name I caused to be filed with your office on January 26, 2004 (SA2004RF0006) and January 28, 2004 (SA2004RF0008) and yet another measure being filed with your office concurrently with the enclosed measure.

Thank you for your attention to this matter.

Sincerely,

RUTAN & TUCKER, LLP

 John A. Ramirez

Enclosures

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STATEMENT REQUIRED PURSUANT TO ELECTIONS CODE SECTION 9608

I, John Ramirez, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

John/A/Ramirez

Dated this 30th day of January, 2004

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Text of Proposed Law

CALIFORNIA HOME RULE AMENDMENT CONSTITUTIONAL AMENDMENT AND STATUTE

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative expressly amends the Constitution by adding sections thereto and amending and repealing sections thereof, and adds sections to and amends and repeals provisions of the Government Code and the Revenue and Taxation Code. Existing provisions proposed to be deleted are printed in ~~strikeout type~~, and new provisions proposed to be added are printed in *italic type* to indicate they are new.

SECTION 1. Title. This measure shall be known and may be cited as the "California Home Rule Amendment."

SECTION 2. Findings and declarations. The people find and declare as follows:

(a) People have the most power to control government at the local level. This is the essence of home rule.

(b) Local government is far more efficient and responsible than state government in the use of tax revenues.

(c) Police protection, fire protection, public health, libraries, transportation, housing, and other important local community services must have an adequate, reliable, and guaranteed source of funding.

(d) Historically, local property taxes were used to pay for local community services. These local taxes have been taken by the state government, leaving local governments with a very small share of local property taxes, only 16 percent on average.

(e) Allowing local communities to keep more of their property taxes will safeguard funds for police and fire protection and other vital services.

(f) Making property taxes the principal source of local government revenues will require new residents in a community to pay their fair share of police, fire, parks,

health care, and other municipal services by contributing their property taxes to the city and county where they live.

(g) The State Legislature has approved laws that divert, use, or delay the payment of local tax revenues to cities and counties, which threatens funding for public safety, public health, parks, libraries, street maintenance, housing, and economic development. This practice must end.

(h) The State also must reimburse local governments when any new program or higher level of service is mandated, and when revenues previously allocated to local government are reallocated or redistributed to a state-created fund.

SECTION 3. Repeal of Section 15 of Article XI of Constitution.

Section 15 of Article XI of the Constitution is repealed:

~~Section 15. (a) All revenues from taxes imposed pursuant to the Vehicle License Fee Law, or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be allocated to counties and cities according to statute.~~

~~(b) This section shall apply to those taxes imposed pursuant to that law on and after July 1 following the approval of this section by the voters.~~

SECTION 4. Addition of Section 16 to Article XI of Constitution.

Section 16 is added to Article XI of the Constitution to read in its entirety as follows:

Section 16. (a) The property tax revenues that are collected by counties pursuant to subdivision (a) of Section 1 of Article XIII A of the Constitution for allocation to each city, city and county, and county shall be apportioned by county auditors to each city, city and county, and county according to this section, other applicable provisions of the California Home Rule Amendment, and other laws implementing the provisions of the California Home Rule Amendment for the purpose of effecting the transfers and allocations of revenues required pursuant to the California Home Rule Amendment.

(b) For the 2005-06 fiscal year, each city, city and county, and county shall receive property tax revenues in the amounts as set forth in other applicable provisions of the California Home Rule

Amendment and other laws implementing the provisions of the California Home Rule Amendment.

(c) For the 2006-07 fiscal year, each city, city and county, and county shall receive property tax revenues in the amounts not less than those specified in other applicable provisions of the California Home Rule Amendment and other laws implementing the provisions of the California Home Rule Amendment.

(d) No provision of the California Home Rule Amendment, unless otherwise expressly stated, shall interfere with the year-to-year allocation of property tax revenues specified in otherwise applicable provisions of the Revenue and Taxation Code, including but not limited to Section 96.1.

(e) No provision of the California Home Rule Amendment shall restrict the power of the Legislature to increase the allocation of property tax revenues to cities, cities and counties, and counties.

SECTION 5. Amendment of Section 24 of Article XIII of Constitution.

Section 24 of Article XIII of the Constitution is amended to read in its entirety as follows:

Section 24. (a) The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

(b) Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

(c) The Legislature may not take any action that:

(1) Reduces, suspends, or delays the receipt of any city's, city and county's, or county's proportionate share of ad valorem taxes on real property and tangible personal property apportioned pursuant to Section 1 of Article XIII A; or

(2) Requires any city, city and county, or county to remit its proportionate share of ad valorem taxes on real property and tangible personal property to the state, to a state-created fund, or, without the consent of the affected local government, to another local government; or

(3) Restricts the authority of any local government to impose, or changes the method of distributing, a sales and use tax imposed by any city, city and county, or county pursuant to the terms of the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of Division 2 of the Revenue and Taxation Code) in accordance with the law as of the effective date of the California Home Rule Amendment; or

(4) Appropriates, reallocates, redistributes, reduces, reapportions, suspends, or delays revenues from taxes imposed by local governments, including but not limited to the business license tax, the transient occupancy tax, and the utility users tax.

(d) Moneys subvented to a local government under Section 25 may be used for state or local purposes.

SECTION 6. Addition of Section 36 to Article XIII of Constitution.

Section 36 is added to Article XIII of the Constitution to read in its entirety as follows:

Section 36. (a) (1) A county School Assistance Fund for Education is hereby created in each county.

(2) The county auditor shall allocate moneys in the fund according to this section.

(3) Moneys in the fund may only be allocated and appropriated for the purposes specified in this section.

(4) The county auditor shall calculate and allocate moneys for the county's School Assistance Fund for Education and the Educational Revenue Augmentation Fund, and shall determine the order in which these calculations and allocations are made. Any excess moneys remaining after these calculations and allocations will be returned to each city, city and county, county, and special district in proportion to their contribution to the said funds. The intent of requiring each county auditor to determine the order in which these calculations and allocations are made is to ensure that all cities, city and counties, counties, and special districts that were previously receiving funds pursuant to Section 97.2, subdivision (d)(4)(B)(i) and Section 97.3, subdivision (d)(4)(B)(i) are not adversely impacted by the establishment of the county's School Assistance Fund for Education. This paragraph shall also apply to any city, city and county, county, or special district that, after the effective date of this section, becomes eligible to receive

funds pursuant to Section 97.2, subdivision (d)(4)(B)(i) and Section 97.3, subdivision (d)(4)(B)(i).

(b) Each county's School Assistance Fund for Education shall consist of the following moneys:

(1) (A) All revenues that are derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor, replacement or backfill fund or account, howsoever designated, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be transferred and allocated by the Controller to each county's School Assistance Fund for Education on the basis of population of such county in relation to the population of the State.

(B) Excluded from this subdivision shall be the portion of those revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor, replacement or backfill fund or account, howsoever designated, that are transferred to the Local Revenue Fund pursuant to Sections 11000 through 11006, inclusive, of the Revenue and Taxation Code, and that are allocated to and restricted for funding the programs specified by Sections 17600 through 17600.20, inclusive, of the Welfare and Institutions Code.

(C) The amount of revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor, replacement or backfill fund or account, howsoever designated, that are allocated pursuant to this paragraph (1) shall be adjusted as necessary in accordance with the provisions of subdivision (b)(2) of Section 11005 of the Revenue and Taxation Code.

(D) This paragraph (1) shall apply only to those revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor, replacement or backfill fund or account, howsoever designated, for taxes collected on and after July 1, 2005.

(2) All revenues, less refunds if any, derived from the taxes imposed pursuant to Sections 6051.7 and 6201.7 of the Revenue and Taxation Code.

(c) Notwithstanding any other provision of law, the provisions of this chapter shall govern the timing and manner of

distribution of revenues from each county's School Assistance Fund for Education.

(1) Prior to the beginning of the 2005-06 fiscal year, and each fiscal year thereafter, each county auditor shall estimate the amount of additional property tax revenues to be allocated to the county and to each city within the county pursuant to the provisions of Section 16 of Article XI and of Section 97.68 of the Revenue and Taxation Code, which additional property tax revenues correspond to the transfer and allocation of vehicle license fee revenues that are required by the California Home Rule Amendment.

(2) Upon determining the estimates of additional property tax revenues pursuant to paragraph (1), each county auditor shall advance and allocate from the county's School Assistance Fund for Education to the county and to each city within the county ninety percent of such estimates for each semi-annual property tax cycle, paid in six equal monthly installments.

(3) In the event that the amount of revenues that are available in the county's School Assistance Fund for Education is less than the amounts estimated to be advanced and allocated pursuant to paragraph (1), then the amounts to be advanced and allocated to the county and each city shall be reduced proportionately.

(4) At such time as property tax revenues are received and available to be allocated by the county auditor to cities, city and counties, and counties pursuant to Section 16 of Article XI, the amount of property tax revenues equal to the amounts previously advanced and allocated to the county and each city from the county's School Assistance Fund for Education in accordance with paragraph (2) shall be transferred by the county auditor to such fund as repayment of the advance. All revenues remaining after repayment shall be promptly allocated by the county auditor to each city, city and county, and county as appropriate and in accordance with otherwise applicable requirements of law, including but not limited to Section 97.68 of the Revenue and Taxation Code.

(5) In the event that the amount advanced and allocated to cities, city and counties, and counties in accordance with paragraph (2) exceeds the property tax revenues that are available to be allocated to cities, city and counties pursuant to Section 16 of

Article XI for any semi-annual property tax cycle, then the county auditor shall deduct the deficit amount as promptly as feasible from the amount advanced and allocated to the county and each city in the next semi-annual property tax cycle.

(d) (1) (A) On August 20 of the 2005-06 fiscal year, and on the 20th day of each sixth month thereafter, the county auditor shall allocate all moneys from the county's School Assistance Fund for Education to school districts and county offices of education on a per-student basis as set forth in this section. Any funds remaining after allocation of a per-student basis as set forth in this subdivision shall be allocated among the cities, city and counties, counties, and special districts in proportion to their contribution to the county's School Assistance Fund for Education.

(B) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the county's School Assistance Fund for Education to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code. The county superintendent of schools shall determine the amount to be allocated to each school district on a per-student basis. In no event shall any additional money be allocated from the county's School Assistance Fund for Education to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated on a per-student basis until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(C) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the county's School Assistance Fund for Education to be

allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code. The chancellor shall determine the amount to be allocated to each community college district on a per-student basis. In no event shall any additional money be allocated from the county's School Assistance Fund for Education to a community college district upon that district becoming an excess tax school entity.

(D) (i) If, after making the allocation required pursuant to subparagraph (B), the county auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to subparagraph (C). If, after making the allocation pursuant to subparagraph (C), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to subparagraph (B). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district on a per-student basis until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(ii) If, after making the allocations pursuant to subparagraphs (B) and (C) and clause (i), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this paragraph shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code, except that funding computed pursuant to Article 3 (commencing with Section 56836.16) of the Education Code is provided by state aid and is not offset by property tax revenues.

(2) Notwithstanding any other provision of law, the following provisions shall apply in the 2005-06 fiscal year to those school districts and county offices of education within the county

that are excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code:

(A) Such school districts and county offices of education shall be entitled to funds allocated pursuant to this section equivalent in amount to the loss, if any, of revenues resulting from the property tax exchanges required by the California Home Rule Amendment.

(B) To the extent that the total amount of funds allocated pursuant to subparagraph (A) exceed, on a per-student basis, the funds allocated to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code, then such the total of the excess allocated amount shall be reduced by ten percent for each subsequent fiscal year for a period of ten fiscal years, so that no excess amount is allocated after the tenth subsequent fiscal year.

(e) Neither the Legislature nor the Governor shall reduce the moneys to be allocated to each county's School Assistance Fund for Education as identified in subdivision (b) without first continuously appropriating an equal amount of replacement revenues.

SECTION 7. Amendment of Section 1 of Article XIII A of Constitution.

Section 1 of Article XIII A of the Constitution is amended to read in its entirety as follows:

Section 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax ~~to~~ shall be collected by the counties and, as to allocations to counties and cities, shall be apportioned according to law ~~to the districts within the counties the provisions of Section 16 of Article XI and, as to allocations to the other jurisdictions within the counties, shall be apportioned according to law.~~

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

(1) Indebtedness approved by the voters prior to July 1, 1978.

(2) Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b).

SECTION 8. Amendment of Section 6 of Article XIII B of Constitution.

Section 6 of Article XIII B of the Constitution is amended to read in its entirety as follows:

Section 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide ~~a~~ *an annual* subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: (a 1) Legislative mandates requested by the local agency affected; (b 2) Legislation defining a new crime or changing an existing definition of a crime; or (c 3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) *The annual subvention of funds required by this section shall be transmitted to the local government at the end of the fiscal year in which within the statute or regulation or order by a state officer or agency that mandates a new program or higher level of service becomes effective, or at the end of the fiscal year in which there is a final adjudication that a subvention of funds is required pursuant to this section. For purposes of this section, the Legislature or any state office or agency mandates a new program or higher level of service when after January 1, 2005, it creates a new program, requires services not previously provided to be provided, increases the frequency or duration of required services, increases the number of persons eligible for services, or transfers to local government complete or partial financial responsibility for a program for which the State previously had complete or partial financial responsibility.*

(c) *If during the fiscal year in which a claim for reimbursement is filed for a subvention of funds, the Legislature does not appropriate a subvention of funds that provides full reimbursement as required by subdivision (a), or does not appropriate a subvention of funds that provides full reimbursement*

as part of the state budget act in the fiscal year immediately following the filing of that claim for reimbursement, then a local government may elect one of the following options:

(1) Continue to perform the mandate. The local government shall receive reimbursement for its costs to perform the mandate through a subsequent appropriation and subvention of funds; or

(2) Suspend performance of the mandate during all or a portion of the fiscal year in which the election permitted by this subdivision is made. The local government may continue to suspend performance of the mandate during all or a portion of subsequent fiscal years until the fiscal year in which the Legislature appropriates the subvention of funds to provide full reimbursement as required by subdivision (a). A local government shall receive reimbursement for its costs for that portion of the fiscal year during which it performed the mandate through a subsequent appropriation and subvention of funds.

This subdivision shall apply only to mandates created on or after January 1, 2005. The terms of this subdivision do not apply to, and a local government may not make the election provided for in this subdivision for, a mandate that either requires a local government to provide or modify any form of protection, right, benefit, or employment status for any local government employee or retiree, or provides or modifies any procedural or substantive right for any local government employee or employee organization, arising from, affecting, or directly relating to future, current, or past local government employment.

(d) For purposes of this section, "mandate" means a statute, or action or order of any state agency, which has been determined by the Legislature, any court, or the Commission on State Mandates or its designated successor, to require reimbursement pursuant to this section.

(e) Nothing in this section shall require or result in the establishment of a reimbursable mandate for the costs of programs or services the financial responsibility for which was transferred pursuant to Sections 11000 through 11006, inclusive, of the Revenue and Taxation Code for funding the programs specified by Sections 17600 through 17600.20, inclusive, of the Welfare and Institutions Code.

SECTION 9. Amendment of Section 8 of Article XVI of Constitution.

Section 8 of Article XVI of the Constitution is amended to read in its entirety as follows:

Section 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.

(b) Commencing with the 1990-91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:

(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986-87.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.

(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one-half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capita General Fund revenues plus one half of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or (3) of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in

enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

(f) For purposes of this section, "changes in enrollment" shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(g) For purposes of this section, the transfers or allocations of sales tax revenues and revenues attributable to or derived from the fund established by the Vehicle License Fee Law (or its successor fund or account, or replacement or backfill funds or accounts therefor, howsoever designated), which transfers or allocations are required by the California Home Rule Amendment to the credit of each county's School Assistance Fund for Education, shall be deemed to constitute allocated local proceeds of taxes, and shall not be considered to be State General Fund revenues.

(h) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the

urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV.

SECTION 10. Amendment of Section 29530 of Government Code.

Section 29530 of the Government Code is amended to read in its entirety as follows:

29530. (a) If the board of supervisors so agrees by contract with the State Board of Equalization, the board of supervisors shall establish a local transportation fund in the county treasury and shall deposit in the fund all revenues transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, which are derived from that portion of the taxes imposed by the county at a rate in excess of 1 percent, ~~and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 of the Revenue and Taxation Code cease to apply,~~ at a rate in excess of one-half of 1 percent, pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of that code, less an allocation of the cost of the services of the State Board of Equalization in administering the sales and use tax ordinance related to the rate in excess of 1 percent, ~~and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 of the Revenue and Taxation Code cease to apply,~~ to the rate in excess of one-half of 1 percent, and of the Director of Transportation and the Controller in administering the responsibilities assigned to him or her in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.

(b) Any interest or other income earned by investment or otherwise of the local transportation fund shall accrue to and be a part of the fund.

SECTION 11: Repeal of Section 97.68 of Revenue and Taxation Code.

The provisions of Section 97.68 of the Revenue and Taxation Code in effect on the effective date of the California Home Rule Amendment shall no longer be operative after June 30, 2005, shall be deemed repealed as of such date, and shall be replaced with the provisions set forth in Section 12 below.

~~97.68 Notwithstanding any other provision of law, in allocating ad valorem property tax revenue allocations for each fiscal year during the fiscal adjustment period, all of the following apply:~~

~~(a) (1) The total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the countywide adjustment amount.~~

~~(2) The countywide adjustment amount shall be deposited in a Sales and Use Tax Compensation Fund that shall be established in the treasury of each county.~~

~~(b) For purposes of this section, the following definitions apply:~~

~~(1) "Fiscal adjustment period" means the period beginning with the 2004-05 fiscal year and continuing through the fiscal year in which the Director of Finance notifies the State Board of Equalization pursuant to subdivision (b) of Section 99006 of the Government Code.~~

~~(2) "Countywide adjustment amount" means the combined total revenue loss of the county and each city in the county that is annually estimated by the Director of Finance, based on the taxable sales in that county in the prior fiscal year as determined by the State Board of Equalization and reported to the director on or before August 15 of each fiscal year during the fiscal adjustment period, to result for each of those fiscal years from the 0.5 percent reduction in local sales and use rate tax authority applied by Section 7203.1.~~

~~(c) For each fiscal year during the fiscal adjustment period, moneys in the Sales and Use Tax Compensation Fund shall be allocated among the county and the cities in the county, and those allocations shall be subsequently adjusted, as follows:~~

~~(1) The Director of Finance shall, on or before September 1 of each fiscal year during the fiscal adjustment period, notify each county auditor of that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and to each city within that county.~~

~~(2) The county auditor shall allocate revenues in the Sales and Use Tax Compensation Fund among the county~~

and cities in the county in the amounts described in paragraph (1). ~~The auditor shall allocate one half of the amount described in paragraph (1) in each January during the fiscal adjustment period and shall allocate the balance of that amount in each May during the fiscal adjustment period.~~

(3) ~~After the end of each fiscal year during the fiscal adjustment period, other than a fiscal year subject to subdivision (d), the Director of Finance shall, based on the actual taxable sales for the prior fiscal year, recalculate each amount estimated under paragraph (1) and notify the county auditor of the recalculated amount.~~

(4) ~~If the amount recalculated under paragraph (3) for the county or any city in the county is greater than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.~~

(5) ~~If the amount recalculated under paragraph (3) for the county or any city in the county is less than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county Educational Revenue Augmentation Fund.~~

(6) ~~If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the transfers required by paragraph (4), the county auditor shall transfer from the county Educational Revenue Augmentation Fund an amount sufficient to make the full amount of these transfers.~~

(d) (1) ~~If Section 7203.1 ceases to be operative during any calendar quarter that is not the calendar quarter in which the fiscal year begins, the excess amount, as defined in~~

~~paragraph (2), of the county and each city in the county shall be reallocated from each of those local agencies to the Educational Revenue Augmentation Fund.~~

~~(2) For purposes of this subdivision, "excess amount" means the product of both of the following:~~

~~(A) The total amount of ad valorem property tax revenue allocated to that local agency pursuant to paragraph (2) of subdivision (c).~~

~~(B) That percentage of the fiscal year in which Section 7203.1 is not operative.~~

~~(e) For the 2005-06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.~~

~~(f) This section may not be construed to do any of the following:~~

~~(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, had this section not been enacted. The allocation made pursuant to subdivisions (a) and (c) shall be adjusted to comply with this paragraph.~~

~~(2) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.~~

~~(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined or allocated in a county.~~

SECTION 12. Addition of Section 97.68 of Revenue and Taxation Code.
Operative on and after July 1, 2005, Section 97.68 of the Revenue and Taxation Code is added to read in its entirety as follows:

97.68 (a) Notwithstanding any other provision of this chapter, and in accordance with Section 16 of Article XI of the Constitution and other applicable provisions of law implementing the California Home Rule Amendment, for the purposes of annual ad valorem property tax revenue allocations in the 2005-06 fiscal year, all of the following shall apply:

(1) The total amount of ad valorem property taxes deemed allocated to each city, city and county, and county in the 2004-05 fiscal year shall equal the sum of:

(A) The actual amount of property tax revenues that was allocated to the city, city and county, or county in the 2004-05 fiscal year; and

(B) The amount of revenue that the city, city and county, or county would have received in the 2004-05 fiscal year pursuant to the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of Division 2) if the city, city and county, or county had imposed a sales and use tax at the rate of one-half of one percent as calculated by the Board of Equalization; and

(C) The amount of vehicle license fee revenue that the city, city and county, or county would have received in the 2004-05 fiscal year, calculated on the basis of rate of two percent of the market value of the vehicle or depreciated value as determined by the Department of Motor Vehicles pursuant to the depreciation schedule in effect on January 1, 2004, excluding those revenues derived from vehicle license fees that are allocated for the programs and services that are required pursuant to Sections 11000 through 11006, inclusive, of the Revenue and Taxation Code for funding the programs specified by Sections 17600 through 17600.20, inclusive, of the Welfare and Institutions Code; and

(D) The 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor for the city, city and county, or county.

(2) For the purposes of this subdivision, the 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor shall mean the product of the following amounts:

(A) One-half; and

(B) The difference between the following amounts:

(i) The amount of property tax revenues the city, city and county, or county would have received in the 2004-05 fiscal year based on the property tax allocations in effect on January 1, 2004 and otherwise applicable statutes, including but not limited to Section 96.1, governing year-to-year adjustments in property tax revenues in effect on January 1, 2004; and

(ii) The amount of property tax revenues actually received by the city, city and county, or county in the 2004-05 fiscal year.

(3) On or before August 1, 2005, the Director of Finance in consultation with the Board of Equalization shall, based on the distributions from the Board of Equalization to local agencies for the 2004-05 fiscal year, recalculate each amount estimated under paragraph (1) of subdivision (c) of Section 97.68 in effect on June 30, 2005, and shall notify each county auditor of the recalculated amount.

(A) If the amount recalculated under this paragraph for a city, city and county, or county is greater than the amount allocated to that local agency in the 2004-05 fiscal year under paragraph (2) of subdivision (c) of Section 97.68 in effect on June 30, 2005, the county auditor shall, in the 2005-06 fiscal year, transfer to the affected local agency an amount of ad valorem property tax equal to this difference from the county's Educational Revenue Augmentation Fund. The provisions of subdivision (c) shall be applicable in the event that the county's Educational Revenue Augmentation Fund is not sufficient in amount to effect the required transfer.

(B) If the amount recalculated under this paragraph for a city, city and county, or county is less than the amount allocated to that local agency in the 2004-05 fiscal year under paragraph (2) of subdivision (c) of Section 97.68 in effect on June 30, 2005,, the county auditor shall, in the 2005-06 fiscal year, reduce the total amount of ad valorem property tax equal to this difference to the county's School Assistance Fund for Education from the amount otherwise to be allocated in the 2005-06 fiscal year to the affected local agency.

(b) Notwithstanding any other provision of this chapter, and in accordance with Section 16 of Article XI of the Constitution

and other applicable provisions of law implementing the California Home Rule Amendment, for purposes of annual ad valorem property tax revenue allocations in the 2006-07 fiscal year, all of the following shall apply:

(1) The total amount of ad valorem property taxes deemed allocated to each city, city and county, and county in the 2005-06 fiscal year shall be increased by the sum of:

(A) The amount of property tax revenues the city, city and county, or county would have received in accordance with the 2005-06 fiscal year tax increment growth on the 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor if the city, city and county, or county had received the 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor in the 2004-05 fiscal year; and

(B) The 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor for the city, city and county, or county.

(2) For the purposes of this subdivision, the 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor shall mean the product of the following amounts:

(A) One-half; and

(B) The difference between the following amounts:

(i) The amount of property tax revenues the city, city and county, or county would have received in the 2004-05 fiscal year based on the property tax allocations in effect on January 1, 2004 and otherwise applicable statutes, including but not limited to Section 96.1, governing year-to-year adjustments in property tax revenues in effect on January 1, 2004; and

(ii) The amount of property tax revenues actually received by the city, city and county, or county in the 2004-05 fiscal year.

(c) Notwithstanding any other provision of law, the total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall first be reduced by the amount required to make the allocations specified in subdivisions (a) and (b).

(1) In the event that the county's Educational Revenue Augmentation Fund is not sufficient in amount to effect the required reduction, the amount of the insufficiency shall then be reduced from the allocated local proceeds of taxes available in the county for allocation to school districts and community college districts proportionately by enrollment.

(2) In the event that both the county's Educational Revenue Augmentation Fund and the allocated local proceeds of taxes available in the county for allocation to school districts and community college districts are not sufficient in amount to effect the required reduction, the amount of the insufficiency shall then be allocated from the county's School Assistance Fund for Education established pursuant to Section 36 of Article XIII of the Constitution.

(d) Each city, city and county, and county, within a three-year period commencing on January 1, 2005, shall have the opportunity to submit a one-time petition to the county auditor to implement a recalculation and adjustment to the percentage of property tax revenues allocated to such city, city and county, or county pursuant to subdivisions (a) and (b) based on increased sales tax revenues that, but for the California Home Rule Amendment, would have been allocated to the city, city and county, or county by reason of one or more approved development projects for which development applications were accepted as complete on or before January 1, 2005. Upon receipt of such a petition, the county auditor, upon consultation with the State Board of Equalization as appropriate, shall determine the appropriate recalculation adjustment.

(3) For the fiscal year 2007-08 and each fiscal year thereafter, ad valorem property tax revenue allocations made pursuant to Section 96.1 shall fully incorporate the allocation adjustments required by this section.

(e) Nothing in this section shall do any of the following:

(1) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency. Nor shall anything in this section result in a community redevelopment agency being allocated, for project areas existing as of the effective date of this section, an amount of tax increment revenue in excess

of the amount that otherwise would have been allocated absent the enactment of this section.

(2) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined in a county.

(3) Interfere with or otherwise impair the realignment of funds and financial responsibility for programs and services that is required pursuant to Sections 11000 through 11006, inclusive, of the Revenue and Taxation Code for funding the programs specified by Sections 17600 through 17600.20, inclusive, of the Welfare and Institutions Code.

(4) Result in the allocation or distribution to any city, city and county, or county of property tax revenues that are collected outside the boundaries of the city, city and county, or county.

(f) Existing sales and use tax exchange and revenue sharing agreements, entered into prior to the operative date of this section, between local governments or between local governments and nonlocal governments shall be deemed to be modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced with property tax revenues as otherwise provided by law.

SECTION 13. Addition of Section 6051.7 to Revenue and Taxation Code.

Section 6051.7 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.7 (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-half of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Section 36 of Article XIII of the Constitution.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SECTION 14. Addition of Section 6051.8 to Revenue and Taxation Code.

Section 6051.8 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.8. There are exempted from the taxes imposed by Section 6051.7 the gross receipts derived from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

SECTION 15. Addition of Section 6201.7 to Revenue and Taxation Code.

Section 6201.7 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.7. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-half of 1 percent of the sales price of the property.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Section 36 of Article XIII of the Constitution.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SECTION 16. Addition of Section 6201.8 to Revenue and Taxation Code.

Section 6201.8 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.8. There are exempted from the taxes imposed by Section 6201.7 the storage, use, or other consumption in this state of tangible personal property, other than fuel or petroleum products, by operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

SECTION 17. Addition of Section 7101.4 to Revenue and Taxation Code.

Section 7101.4 is added to the Revenue and Taxation Code to read in its entirety as follows:

7101.4. Notwithstanding Section 7101, all revenues, less refunds, derived from the taxes imposed to Sections 6051.7 and 6201.7 shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Section 36 of Article XIII of the Constitution.

SECTION 18: Amendment of Section 7202 of Revenue and Taxation Code. Section 7202 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7202. The sales tax portion of any sales and use tax ordinance adopted under this part shall be imposed for the

privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(a) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the county at the rate of 1 1/4 percent, *and on and after the end of the revenue exchange period at the rate of three-quarters of 1 percent*, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the county.

(b) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales taxes, except that the name of the county as the taxing agency shall be substituted for that of the state and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(c) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales tax and not inconsistent with this part, shall automatically become a part of the sales tax ordinance of the county.

(d) A provision that the county shall contract prior to the effective date of the county sales and use tax ordinances with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the county. Any such contract shall contain a provision that the county agrees to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(e) A provision that the ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the county of the rate of its sales or use tax above the rate in effect at the time the county ordinance was enacted.

(f) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(g) A provision that there is exempted from the sales tax ~~80 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply,~~ 67 percent, of the gross receipts from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(h) A provision that any person subject to a sales and use tax under the county ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use tax due to any city in the county; provided that the city sales and use tax is levied under an ordinance including provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the city *on and after the end of the revenue exchange period* at the rate of *one-half of* 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the city and a use tax *on and after the revenue exchange period of one-half of* 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the city.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the city as the taxing agency shall be substituted for that of the state (but the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not

be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the city.

(4) A provision that the city shall contract prior to the effective date of the city sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city which shall continue in effect so long as the county within which the city is located has an operative sales and use tax ordinance enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or

compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(i) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SECTION 19. Amendment of Section 7203 of Revenue and Taxation Code. Section 7203 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7203. (a) The use tax portion of any sales and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the county of tangible personal property purchased from any retailer for storage, use or other consumption in the county.

(b) That tax shall be at the rate of $11/4$ percent, *and on and after the end of the revenue exchange period at the rate of three-quarters of 1 percent*, of the sales price of the property whose storage, use or other consumption is subject to the tax and shall include:

(a 1) Provisions identical to the provisions contained in Part 1 (commencing with Section 6001), other than Section 6201 insofar as those provisions relate to the use tax, except that the name of the county as the taxing agency enacting the ordinance shall be substituted for that of the state (but the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203).

(b 2) A provision that all amendments subsequent to the date of such ordinance to the provisions of the Revenue and Taxation Code relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance.

(e 3) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(d 4) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(e 5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempt from ~~80 percent of the use tax, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply, exempt from~~ 67 percent of the use tax.

(c) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SECTION 20. Amendment of Section 7203.1 of Revenue and Taxation Code. Section 7203.1 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7203.1. (a) Notwithstanding any other provision of law, during the revenue exchange period ~~only~~, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 is suspended, and the tax rate to be applied instead during that period under any ordinance as so adopted is the applicable of the following:

(1) In the case of a county, three-quarters of 1 percent.

(2) In the case of a city, one-half of 1 percent.

(b) Notwithstanding any other provision of law, on and after the end of the revenue exchange period, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 shall be limited to the following:

(1) In the case of a county, a tax rate not to exceed three-quarters of 1 percent.

(2) In the case of a city, a tax rate not to exceed one-half of 1 percent.

~~(b)~~ (c) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

~~(e)~~ (d) Subdivisions (a) ~~and (b) is a~~ *are* self-executing provisions that operates without regard to any decision or act on the part of any local government. A change in a local general tax rate resulting from ~~either the rate limitations applied by subdivisions (a) or the end of the revenue exchange period and (b)~~ *is* not subject to voter approval under either statute or Article XIII C of the California Constitution.

(e) Existing sales and use tax exchange and revenue sharing agreements, entered into prior to the operative date of this section, between local governments or between local governments and nonlocal governments shall be deemed to be modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced with property tax revenues as otherwise provided by law.

SECTION 21. Addition of Section 36 to Article XIII of Constitution, amendment of Section 29530 of Government Code, repeal and addition of Section 97.68 of Revenue and Taxation Code, addition of Sections 6051.7, 6051.9, 6051.95, 6201.7, 6201.9, 6201.95, and 7101.4 to Revenue and Taxation Code, and amendment of Sections 7202, 7203, and 7203.1 of Revenue and Taxation Code in event Assembly Bill

9, enacted as Chapter 2 of the 2003-04 Fifth Extraordinary Session, becomes operative. In accordance with Assembly Bill 9, enacted as Chapter 2 of the 2003-04 Fifth Extraordinary Session, and filed with the Secretary of State on December 12, 2003, certain additions and amendments to portions of the Government Code and the Revenue and Taxation Code are to become operative upon the occurrence of the following: (i) submittal to and approval by the voters of Assembly Constitutional Amendment 5 of the 2003-04 Fifth Extraordinary Session at the March 2, 2004 statewide primary election, and (ii) adoption by the voters of the Economic Recovery Bond Act at the March 2, 2004 statewide primary election. Some of the provisions of Assembly Bill 9, if operative, would be inconsistent with some of the provisions of the California Home Rule Amendment set forth above. The voters expressly declare their intent that in the event that Sections 1 to 4.20, inclusive, of Assembly Bill 9 become operative, and only in such event, the following constitutional and statutory modifications be adopted in lieu of the modifications otherwise set forth above.

A. Addition of Section 36 to Article XIII of Constitution. In lieu of the provisions of Section 6 hereof set forth above, Section 36 is added to Article XIII of the Constitution to read in its entirety as follows:

Section 36. (a) (1) A county School Assistance Fund for Education is hereby created in each county.

(2) The county auditor shall allocate moneys in the fund according to this section.

(3) Moneys in the fund may only be allocated and appropriated for the purposes specified in this section.

(4) The county auditor shall calculate and allocate moneys for the county's School Assistance Fund for Education and the Educational Revenue Augmentation Fund, and shall determine the order in which these calculations and allocations are made. Any excess moneys remaining after these calculations and allocations will be returned to each city, city and county, county, and special district in proportion to their contribution to the said funds. The intent of requiring each county auditor to determine the order in which these calculations and allocations are made is to ensure that all cities, city and counties, counties, and special districts that were previously receiving funds pursuant to Section 97.2, subdivision (d)(4)(B)(i) and Section 97.3, subdivision (d)(4)(B)(i) are not adversely impacted by the establishment of the county's School Assistance Fund for Education. This paragraph shall also apply to any city, city and county, county, or special district that, after the effective date of this section, becomes eligible to receive

funds pursuant to Section 97.2, subdivision (d)(4)(B)(i) and Section 97.3, subdivision (d)(4)(B)(i).

(b) Each county's School Assistance Fund for Education shall consist of the following moneys:

(1) (A) All revenues that are derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor, replacement or backfill fund or account, howsoever designated, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be transferred and allocated by the Controller to each county's School Assistance Fund for Education on the basis of population of such county in relation to the population of the State.

(B) Excluded from this subdivision shall be the portion of those revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor, replacement or backfill fund or account, howsoever designated, that are transferred to the Local Revenue Fund pursuant to Sections 11000 through 11006, inclusive, of the Revenue and Taxation Code, and that are allocated to and restricted for funding the programs specified by Sections 17600 through 17600.20, inclusive, of the Welfare and Institutions Code.

(C) The amount of revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor, replacement or backfill fund or account, howsoever designated, that are allocated pursuant to this paragraph (1) shall be adjusted as necessary in accordance with the provisions of subdivision (b)(2) of Section 11005 of the Revenue and Taxation Code.

(D) This paragraph (1) shall apply only to those revenues derived from or attributable to the fund established by the Vehicle License Fee Law, or its successor, replacement or backfill fund or account, howsoever designated, for taxes collected on and after July 1, 2005.

(2) All revenues, less refunds if any, derived from the taxes imposed pursuant to Sections 6051.7, 6051.9, 6201.7, and 6201.9 of the Revenue and Taxation Code.

(c) Notwithstanding any other provision of law, the provisions of this chapter shall govern the timing and manner of

distribution of revenues from each county's School Assistance Fund for Education.

(1) Prior to the beginning of the 2005-06 fiscal year, and each fiscal year thereafter, each county auditor shall estimate the amount of additional property tax revenues to be allocated to the county and to each city within the county pursuant to the provisions of Section 16 of Article XI and of Section 97.68 of the Revenue and Taxation Code, which additional property tax revenues correspond to the transfer and allocation of vehicle license fee revenues that are required by the California Home Rule Amendment.

(2) Upon determining the estimates of additional property tax revenues pursuant to paragraph (1), each county auditor shall advance and allocate from the county's School Assistance Fund for Education to the county and to each city within the county ninety percent of such estimates for each semi-annual property tax cycle, paid in six equal monthly installments.

(3) In the event that the amount of revenues that are available in the county's School Assistance Fund for Education is less than the amounts estimated to be advanced and allocated pursuant to paragraph (1), then the amounts to be advanced and allocated to the county and each city shall be reduced proportionately.

(4) At such time as property tax revenues are received and available to be allocated by the county auditor to cities, city and counties, and counties pursuant to Section 16 of Article XI, the amount of property tax revenues equal to the amounts previously advanced and allocated to the county and each city from the county's School Assistance Fund for Education in accordance with paragraph (2) shall be transferred by the county auditor to such fund as repayment of the advance. All revenues remaining after repayment shall be promptly allocated by the county auditor to each city, city and county, and county as appropriate and in accordance with otherwise applicable requirements of law, including but not limited to Section 97.68 of the Revenue and Taxation Code.

(5) In the event that the amount advanced and allocated to cities, city and counties, and counties in accordance with paragraph (2) exceeds the property tax revenues that are available to be allocated to cities, city and counties pursuant to Section 16 of

Article XI for any semi-annual property tax cycle, then the county auditor shall deduct the deficit amount as promptly as feasible from the amount advanced and allocated to the county and each city in the next semi-annual property tax cycle.

(d) (1) (A) On August 20 of the 2005-06 fiscal year, and on the 20th day of each sixth month thereafter, the county auditor shall allocate all moneys from the county's School Assistance Fund for Education to school districts and county offices of education on a per-student basis as set forth in this section. Any funds remaining after allocation of a per-student basis as set forth in this subdivision shall be allocated among the cities, city and counties, counties, and special districts in proportion to their contribution to the county's School Assistance Fund for Education.

(B) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the county's School Assistance Fund for Education to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code. The county superintendent of schools shall determine the amount to be allocated to each school district on a per-student basis. In no event shall any additional money be allocated from the county's School Assistance Fund for Education to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated on a per-student basis until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(C) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the county's School Assistance Fund for Education to be

allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code. The chancellor shall determine the amount to be allocated to each community college district on a per-student basis. In no event shall any additional money be allocated from the county's School Assistance Fund for Education to a community college district upon that district becoming an excess tax school entity.

(D) (i) If, after making the allocation required pursuant to subparagraph (B), the county auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to subparagraph (C). If, after making the allocation pursuant to subparagraph (C), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to subparagraph (B). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district on a per-student basis until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(ii) If, after making the allocations pursuant to subparagraphs (B) and (C) and clause (i), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this paragraph shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code, except that funding computed pursuant to Article 3 (commencing with Section 56836.16) of the Education Code is provided by state aid and is not offset by property tax revenues.

(2) Notwithstanding any other provision of law, the following provisions shall apply in the 2005-06 fiscal year to those school districts and county offices of education within the county

that are excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code:

(A) Such school districts and county offices of education shall be entitled to funds allocated pursuant to this section equivalent in amount to the loss, if any, of revenues resulting from the property tax exchanges required by the California Home Rule Amendment.

(B) To the extent that the total amount of funds allocated pursuant to subparagraph (A) exceed, on a per-student basis, the funds allocated to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code, then such the total of the excess allocated amount shall be reduced by ten percent for each subsequent fiscal year for a period of ten fiscal years, so that no excess amount is allocated after the tenth subsequent fiscal year.

(e) Neither the Legislature nor the Governor shall reduce the moneys to be allocated to each county's School Assistance Fund for Education as identified in subdivision (b) without first continuously appropriating an equal amount of replacement revenues.

B. Amendment of Section 29530 of Government Code. In lieu of the provisions of Section 10 hereof set forth above, Section 29530 of the Government Code is amended to read in its entirety as follows:

29530. (a) If the board of supervisors so agrees by contract with the State Board of Equalization, the board of supervisors shall establish a local transportation fund in the county treasury and shall deposit in the fund all revenues transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, which are derived from that portion of the taxes imposed by the county at a rate in excess of ~~1 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 of the Revenue and Taxation Code cease to apply, at a rate in excess of three-quarters one-half of 1~~ percent, pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of that code, less an allocation of the cost of the services of the State Board of Equalization in administering the sales and use tax ordinance related to the

rate in excess of 1 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 of the Revenue and Taxation Code cease to apply, to the rate in excess of three-quarters *one-half* of 1 percent, and of the Director of Transportation and the Controller in administering the responsibilities assigned to him or her in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.

(b) Any interest or other income earned by investment or otherwise of the local transportation fund shall accrue to and be a part of the fund.

C. Repeal of Section 97.68 of Revenue and Taxation Code. In lieu of the provisions of Section 11 hereof set forth above, the provisions of Section 97.68 of the Revenue and Taxation Code in effect on the effective date of the California Home Rule Amendment shall no longer be operative after June 30, 2005, shall be deemed repealed as of such date, and shall be replaced with the provisions set forth in subdivision D below.

~~97.68. Notwithstanding any other provision of law, in allocating ad valorem property tax revenue allocations for each fiscal year during the fiscal adjustment period, all of the following apply:~~

~~(a) (1) The total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the countywide adjustment amount.~~

~~(2) The countywide adjustment amount shall be deposited in a Sales and Use Tax Compensation Fund that shall be established in the treasury of each county.~~

~~(b) For purposes of this section, the following definitions apply:~~

~~(1) "Fiscal adjustment period" means the period beginning with the 2004-05 fiscal year and continuing through the fiscal year in which the Director of Finance notifies the State Board of Equalization pursuant to subdivision (b) of Section 99006 of the Government Code.~~

~~(2) "Countywide adjustment amount" means the combined total revenue loss of the county and each city in the county that is annually estimated by the Director of Finance, based on the taxable sales in that county in the prior fiscal year as determined by the State Board of Equalization and reported to the director on or before August 15 of each fiscal year during the fiscal adjustment period, to result for each of those fiscal years from the 0.25 percent reduction in local sales and use rate tax authority applied by Section 7203.1.~~

~~(c) For each fiscal year during the fiscal adjustment period, moneys in the Sales and Use Tax Compensation Fund shall be allocated among the county and the cities in the county, and those allocations shall be subsequently adjusted, as follows:~~

~~(1) The Director of Finance shall, on or before September 1 of each fiscal year during the fiscal adjustment period, notify each county auditor of that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and to each city within that county.~~

~~(2) The county auditor shall allocate revenues in the Sales and Use Tax Compensation Fund among the county and cities in the county in the amounts described in paragraph (1). The auditor shall allocate one half of the amount described in paragraph (1) in each January during the fiscal adjustment period and shall allocate the balance of that amount in each May during the fiscal adjustment period.~~

~~(3) After the end of each fiscal year during the fiscal adjustment period, other than a fiscal year subject to subdivision (d), the Director of Finance shall, based on the actual taxable sales for the prior fiscal year, recalculate each amount estimated under paragraph (1) and notify the county auditor of the recalculated amount.~~

~~(4) If the amount recalculated under paragraph (3) for the county or any city in the county is greater than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the~~

~~fiscal year for which the allocation was made, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.~~

~~(5) If the amount recalculated under paragraph (3) for the county or any city in the county is less than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county Educational Revenue Augmentation Fund.~~

~~(6) If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the transfers required by paragraph (4), the county auditor shall transfer from the county Educational Revenue Augmentation Fund an amount sufficient to make the full amount of these transfers.~~

~~(d) (1) If Section 7203.1 ceases to be operative during any calendar quarter that is not the calendar quarter in which the fiscal year begins, the excess amount, as defined in paragraph (2), of the county and each city in the county shall be reallocated from each of those local agencies to the Educational Revenue Augmentation Fund.~~

~~(2) For purposes of this subdivision, "excess amount" means the product of both of the following:~~

~~(A) The total amount of ad valorem property tax revenue allocated to that local agency pursuant to paragraph (2) of subdivision (c).~~

~~(B) That percentage of the fiscal year in which Section 7203.1 is not operative.~~

~~(e) For the 2005-06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not~~

~~reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.~~

~~(f) This section may not be construed to do any of the following:~~

~~(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, had this section not been enacted. The allocation made pursuant to subdivisions (a) and (c) shall be adjusted to comply with this paragraph.~~

~~(2) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.~~

~~(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined or allocated in a county.~~

~~(g) Existing tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies shall be deemed to be temporarily modified to account for the reduced sales and use tax revenues, resulting from the temporary reduction in the local sales and use tax rate, with those reduced revenues to be replaced in kind by property tax revenue from a Sales and Use Tax Compensation Fund or an Educational Revenue Augmentation Fund, on a temporary basis, as provided by this section.~~

D. Addition of Section 97.68 of Revenue and Taxation Code. In lieu of the provisions of Section 12 hereof adding Section 97.68 to the Revenue and Taxation Code as set forth above, operative on and after July 1, 2005, Section 97.68 of the Revenue and Taxation Code is added to read in its entirety as follows:

97.68 (a) Notwithstanding any other provision of this chapter, and in accordance with Section 16 of Article XI of the Constitution and other applicable provisions of law implementing the California Home Rule Amendment, for the purposes of annual

ad valorem property tax revenue allocations in the 2005-06 fiscal year, all of the following shall apply:

(1) The total amount of ad valorem property taxes deemed allocated to each city, city and county, and county in the 2004-05 fiscal year shall equal the sum of:

(A) The actual amount of property tax revenues that was allocated to the city, city and county, or county in the 2004-05 fiscal year; and

(B) The amount of revenue that the city, city and county, or county would have received in the 2004-05 fiscal year pursuant to the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of Division 2) if the city, city and county, or county had imposed a sales and use tax at the rate of one-half of one percent as calculated by the Board of Equalization; and

(C) The amount of vehicle license fee revenue that the city, city and county, or county would have received in the 2004-05 fiscal year, calculated on the basis of rate of two percent of the market value of the vehicle or depreciated value as determined by the Department of Motor Vehicles pursuant to the depreciation schedule in effect on January 1, 2004, excluding those revenues derived from vehicle license fees that are allocated for the programs and services that are required pursuant to Sections 11000 through 11006, inclusive, of the Revenue and Taxation Code for funding the programs specified by Sections 17600 through 17600.20, inclusive, of the Welfare and Institutions Code; and

(D) The 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor for the city, city and county, or county.

(2) For the purposes of this subdivision, the 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor shall mean the product of the following amounts:

(A) One-half; and

(B) The difference between the following amounts:

(i) The amount of property tax revenues the city, city and county, or county would have received in the 2004-05 fiscal year

based on the property tax allocations in effect on January 1, 2004 and otherwise applicable statutes, including but not limited to Section 96.1, governing year-to-year adjustments in property tax revenues in effect on January 1, 2004; and

(ii) The amount of property tax revenues actually received by the city, city and county, or county in the 2004-05 fiscal year.

(3) On or before August 1, 2005, the Director of Finance in consultation with the Board of Equalization shall, based on the distributions from the Board of Equalization to local agencies for the 2004-05 fiscal year, recalculate each amount estimated under paragraph (1) of subdivision (c) of Section 97.68 in effect on June 30, 2005, and shall notify each county auditor of the recalculated amount.

(A) If the amount recalculated under this paragraph for a city, city and county, or county is greater than the amount allocated to that local agency in the 2004-05 fiscal year under paragraph (2) of subdivision (c) of Section 97.68 in effect on June 30, 2005, the county auditor shall, in the 2005-06 fiscal year, transfer to the affected local agency an amount of ad valorem property tax equal to this difference from the county's Educational Revenue Augmentation Fund. The provisions of subdivision (c) shall be applicable in the event that the county's Educational Revenue Augmentation Fund is not sufficient in amount to effect the required transfer.

(B) If the amount recalculated under this paragraph for a city, city and county, or county is less than the amount allocated to that local agency in the 2004-05 fiscal year under paragraph (2) of subdivision (c) of Section 97.68 in effect on June 30, 2005,, the county auditor shall, in the 2005-06 fiscal year, reduce the total amount of ad valorem property tax equal to this difference to the county's School Assistance Fund for Education from the amount otherwise to be allocated in the 2005-06 fiscal year to the affected local agency.

(b) Notwithstanding any other provision of this chapter, and in accordance with Section 16 of Article XI of the Constitution and other applicable provisions of law implementing the California Home Rule Amendment, for purposes of annual ad valorem property tax revenue allocations in the 2006-07 fiscal year, all of the following shall apply:

(1) The total amount of ad valorem property taxes deemed allocated to each city, city and county, and county in the 2005-06 fiscal year shall be increased by the sum of:

(A) The amount of property tax revenues the city, city and county, or county would have received in accordance with the 2005-06 fiscal year tax increment growth on the 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor if the city, city and county, or county had received the 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor in the 2004-05 fiscal year; and

(B) The 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor for the city, city and county, or county.

(2) For the purposes of this subdivision, the 2004-05 fiscal year Educational Revenue Augmentation Fund Adjustment Factor shall mean the product of the following amounts:

(A) One-half; and

(B) The difference between the following amounts:

(i) The amount of property tax revenues the city, city and county, or county would have received in the 2004-05 fiscal year based on the property tax allocations in effect on January 1, 2004 and otherwise applicable statutes, including but not limited to Section 96.1, governing year-to-year adjustments in property tax revenues in effect on January 1, 2004; and

(ii) The amount of property tax revenues actually received by the city, city and county, or county in the 2004-05 fiscal year.

(c) Notwithstanding any other provision of law, the total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall first be reduced by the amount required to make the allocations specified in subdivisions (a) and (b).

(1) In the event that the county's Educational Revenue Augmentation Fund is not sufficient in amount to effect the required reduction, the amount of the insufficiency shall then be

reduced from the allocated local proceeds of taxes available in the county for allocation to school districts and community college districts proportionately by enrollment.

(2) In the event that both the county's Educational Revenue Augmentation Fund and the allocated local proceeds of taxes available in the county for allocation to school districts and community college districts are not sufficient in amount to effect the required reduction, the amount of the insufficiency shall then be allocated from the county's School Assistance Fund for Education established pursuant to Section 36 of Article XIII of the Constitution.

(d) Each city, city and county, and county, within a three-year period commencing on January 1, 2005, shall have the opportunity to submit a one-time petition to the county auditor to implement a recalculation and adjustment to the percentage of property tax revenues allocated to such city, city and county, or county pursuant to subdivisions (a) and (b) based on increased sales tax revenues that, but for the California Home Rule Amendment, would have been allocated to the city, city and county, or county by reason of one or more approved development projects for which development applications were accepted as complete on or before January 1, 2005. Upon receipt of such a petition, the county auditor, upon consultation with the State Board of Equalization as appropriate, shall determine the appropriate recalculation adjustment.

(3) For the fiscal year 2007-08 and each fiscal year thereafter, ad valorem property tax revenue allocations made pursuant to Section 96.1 shall fully incorporate the allocation adjustments required by this section.

(e) Nothing in this section shall do any of the following:

(1) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency. Nor shall anything in this section result in a community redevelopment agency being allocated, for project areas existing as of the effective date of this section, an amount of tax increment revenue in excess of the amount that otherwise would have been allocated absent the enactment of this section.

(2) *Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined in a county.*

(3) *Interfere with or otherwise impair the realignment of funds and financial responsibility for programs and services that is required pursuant to Sections 11000 through 11006, inclusive, of the Revenue and Taxation Code for funding the programs specified by Sections 17600 through 17600.20, inclusive, of the Welfare and Institutions Code.*

(4) *Result in the allocation or distribution to any city, city and county, or county of property tax revenues that are collected outside the boundaries of the city, city and county, or county.*

(f) *Existing sales and use tax exchange and revenue sharing agreements, entered into prior to the operative date of this section, between local governments or between local governments and nonlocal governments shall be deemed to be modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced with property tax revenues as otherwise provided by law.*

E. Addition of Section 6051.7 to Revenue and Taxation Code. In lieu of the provisions of Section 13 hereof adding Section 6051.7 to the Revenue and Taxation Code as set forth above, Section 6051.7 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.7 (a) *In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.*

(b) *All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Section 36 of Article XIII of the Constitution.*

(c) *Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not*

be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIIIB" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

F. Addition of Section 6051.9 to Revenue and Taxation Code. Section 6051.9 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.9 (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Section 36 of Article XIII of the Constitution.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIIIB" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on July 1, 2005.

G. Addition of Section 6051.95 to Revenue and Taxation Code. Section 6051.95 is added to the Revenue and Taxation Code to read in its entirety as follows:

6051.95. There are exempted from the taxes imposed by Section 6051.9 the gross receipts derived from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in

the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

H. Addition of Section 6201.7 to Revenue and Taxation Code. In lieu of the provisions of Section 15 hereof adding Section 6201.7 to the Revenue and Taxation Code as set forth above, Section 6201.7 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.7. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-quarter of 1 percent of the sales price of the property.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Section 36 of Article XIII of the Constitution.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIIIB" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

I. Addition of Section 6201.9 to Revenue and Taxation Code. Section 6201.9 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.9. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-quarter of 1 percent of the sales price of the property.

(b) All revenues, net of refunds, received pursuant to this section shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Section 36 of Article XIII of the Constitution.

(c) Revenues received pursuant to this section accruing to the School Assistance Fund for Education for each county shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIIIB" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on July 1, 2005.

J. Addition of Section 6201.95 to Revenue and Taxation Code. Section 6201.10 is added to the Revenue and Taxation Code to read in its entirety as follows:

6201.95. There are exempted from the taxes imposed by Section 6201.9 the storage, use, or other consumption in this state of tangible personal property, other than fuel or petroleum products, by operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

K. Addition of Section 7101.4 to Revenue and Taxation Code. In lieu of the provisions of Section 17 hereof adding Section 7101.4 to the Revenue and Taxation Code as set forth above, Section 7101.4 is added to the Revenue and Taxation Code to read in its entirety as follows:

7101.4. Notwithstanding Section 7101, all revenues, less refunds, derived from the taxes imposed to Sections 6051.7, 6051.9, 6201.7, and 6201.9 shall be collected by the State Board of Equalization and, upon collection, shall be transmitted to the School Assistance Fund for Education for the county where the taxable activity occurred, which School Assistance Fund for Education for each county has been established pursuant to Section 36 of Article XIII of the Constitution.

L. Amendment of Section 7202 of Revenue and Taxation Code. In lieu of the provisions of Section 18 hereof amending Section 7202 of the Revenue and Taxation

Code as set forth above, Section 7202 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7202. The sales tax portion of any sales and use tax ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(a) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the county at the rate of 1 1/4 percent, *and on and after the end of the revenue exchange period at the rate of three-quarters of 1 percent*, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the county.

(b) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales taxes, except that the name of the county as the taxing agency shall be substituted for that of the state and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(c) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales tax and not inconsistent with this part, shall automatically become a part of the sales tax ordinance of the county.

(d) A provision that the county shall contract prior to the effective date of the county sales and use tax ordinances with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the county. Any such contract shall contain a provision that the county agrees to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(e) A provision that the ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11 (commencing with Section

29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the county of the rate of its sales or use tax above the rate in effect at the time the county ordinance was enacted.

(f) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(g) A provision that there is exempted from the sales tax ~~80 percent, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply, 75~~ 67 percent, of the gross receipts from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(h) A provision that any person subject to a sales and use tax under the county ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use tax due to any city in the county; provided that the city sales and use tax is levied under an ordinance including provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the city *on and after the end of the revenue exchange period* at the rate of *one-half of* 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the city and a use tax *on and after the revenue exchange period* of *one-half of* 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the city.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the city as the taxing agency shall be substituted for that of the state (but

the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the city.

(4) A provision that the city shall contract prior to the effective date of the city sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city which shall continue in effect so long as the county within which the city is located has an operative sales and use tax ordinance enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or

other consumption of tangible personal property purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(i) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

M. Amendment of Section 7203 of Revenue and Taxation Code. In lieu of the provisions of Section 19 hereof amending Section 7203 of the Revenue and Taxation Code as set forth above, Section 7203 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7203. (a) The use tax portion of any sales and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the county of tangible personal property purchased from any retailer for storage, use or other consumption in the county.

(b) That tax shall be at the rate of 11/4 percent, *and on and after the end of the revenue exchange period at the rate of three-quarters of 1 percent*, of the sales price of the property whose storage, use or other consumption is subject to the tax and shall include:

(a 1) Provisions identical to the provisions contained in Part 1 (commencing with Section 6001), other than Section 6201 insofar as those provisions relate to the use tax, except that the name of the county as the taxing agency enacting the ordinance shall be substituted for that of the state (but the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203).

(b 2) A provision that all amendments subsequent to the date of such ordinance to the provisions of the Revenue and Taxation Code relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance.

(e 3) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(d 4) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(e 5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempt from ~~80 percent of the use tax, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply, exempt from~~ 67 percent of the use tax.

(c) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

N. Amendment of Section 7203.1 of Revenue and Taxation Code. In lieu of the provisions of Section 20 hereof amending Section 7203.1 of the Revenue and Taxation Code as set forth above, Section 7203.1 of the Revenue and Taxation Code is amended to read in its entirety as follows:

7203.1. (a) Notwithstanding any other provision of law, during the revenue exchange period ~~only~~, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 is suspended, and the tax rate to be applied instead during that period under any ordinance as so adopted is the applicable of the following:

(1) In the case of a county, *three-quarters of 1 percent.*

(2) In the case of a city, ~~three-quarters~~ *one-half of 1 percent.*

(b) Notwithstanding any other provision of law, on and after the end of the revenue exchange period, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 shall be limited to the following:

(1) In the case of a county, a tax rate not to exceed three-quarters of 1 percent.

(2) In the case of a city, a tax rate not to exceed one-half of 1 percent.

~~(b)~~ (c) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

~~(e)~~ (d) Subdivisions (a) *and (b)* ~~is-a~~ *are* self-executing provisions that operates without regard to any decision or act on the part of any local government. A change in a local general tax rate resulting from ~~either~~ the rate limitations applied by subdivisions (a) ~~or the end of the revenue exchange period~~ *and (b)* is not subject to voter approval under either statute or Article XIII C of the California Constitution.

~~(d)~~ (e) Existing sales and use tax exchange and revenue sharing agreements, entered into prior to the operative date of this section, between local governments or between local governments and nonlocal governments shall be deemed to

be temporarily modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced *with property tax revenues* as ~~may~~ otherwise be provided by law.

SECTION 22. Effective date. The California Home Rule Amendment and all provisions thereof, unless otherwise expressly herein provided, shall take effect and become operative on the date the Secretary of State certifies the results of the election at which the California Home Rule Amendment was approved.

SECTION 23. Further implementation. The Legislature shall pass all laws necessary to carry out the provisions of the California Home Rule Amendment.

SECTION 24. Amendment. The California Home Rule Amendment may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All amendments to the California Home Rule Amendment shall be to further the California Home Rule Amendment and must be consistent with its purposes.

SECTION 25. Liberal construction. The provisions of the California Home Rule Amendment shall be liberally construed to effectuate its purposes of providing an adequate, reliable, and guaranteed source of funding to cities and counties to finance public safety, public health, parks, libraries, street maintenance, housing, economic development, and other vital community services.

SECTION 26. Conflict with competing measure. In the event that another measure ("competing measure") appears on the same ballot as the California Home Rule Amendment which seeks to adopt or impose provisions or requirements that directly conflict with the provisions or requirements contained in the California Home Rule Amendment, then the voters hereby expressly declare their intent that if both the competing measure and the California Home Rule Amendment receive a majority of affirmative votes cast, and if the California Home Rule Amendment receives a greater number of affirmative votes than the competing measure, the provisions or requirements of the California Home Rule Amendment shall prevail over the conflicting provisions or requirements of the competing measure.

SECTION 27. Severability. If any provision of the California Home Rule Amendment, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of the California Home Rule Amendment are severable.